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2                   IN THE UNITED STATES DISTRICT COURT FOR THE  
3                   WESTERN DISTRICT OF MISSOURI  
4                   WESTERN DIVISION

5 UNITED STATES OF AMERICA,            ) Case No. 12-00133-01-CR-W-HFS  
6    )  
7                   Plaintiff,            ) Kansas City, Missouri  
8    ) June 14, 2012  
9 v.                                        )  
10   )  
11 CHARLES DANIEL KOSS,                 )  
12   )  
13                   Defendant.           )  
14   )  
15 \_\_\_\_\_)

16                   TRANSCRIPT OF STATUS CONFERENCE REGARDING COMPETENCY  
17                   BEFORE THE HONORABLE ROBERT E. LARSEN  
18                   CHIEF UNITED STATES MAGISTRATE JUDGE

19 APPEARANCES:

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Proceedings recorded by electronic sound recording, transcript  
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1 (Court in Session at 2:51 p.m.)

2 THE COURT: Be seated. Good afternoon.

3 MR. KOSS: Good afternoon.

4 THE COURT: I have the matter of *United States of*  
5 *America vs. Charles Daniel Koss* before me. This is 12-133-01-CR-  
6 W-HFS. Let me have the Assistant U.S. Attorneys' appearances,  
7 please.

8 MR. ALFORD: Trey Alford, Dan Nelson and Kate Hoey on  
9 behalf of the United States, Your Honor.

10 THE COURT: Okay. And I have the defendant here who  
11 prefers that I refer to him as the authorized representative.  
12 So, in order to avoid any --

13 MR. KOSS: Sir, I'm not the defendant. I have to do  
14 this every time, but I am not the defendant.

15 THE COURT: Right.

16 MR. KOSS: I am here as a secured party to the trust  
17 estate of Charles Daniel Koss.

18 THE COURT: Right. And I'll refer to you as the  
19 authorized representative as you've requested in the past. Okay.  
20 Now, let me explain why we're here. There has been issue that  
21 has emerged in this case by virtue of the nature of the defense,  
22 which is *pro se*. And it's basically --

23 MR. KOSS: It's *sui juris*, sir. I'm not *pro se*.

24 THE COURT: Well, you're representing -- okay. In any  
25 case, the issue has been one that's been generated by the

1 persistence in espousing the doctrine of what has been commonly  
2 referred to as sovereign citizens. And my concern has been that  
3 whether or not the authorized representative here is competent to  
4 present a defense. Now, just to be frank about it, other than  
5 the espousal of that doctrine, I don't particularly -- haven't  
6 noticed anything else that gives me any concern about his  
7 competency. But I do, and I think that's probably the position  
8 of the U.S. Attorneys who have been present in court during these  
9 various proceedings. Is that the case or not?

10 MR. ALFORD: That's correct, Your Honor. I don't have  
11 any evidence of any mental disorder or defect that the defendant  
12 may have other than he espouses common redemption theory and  
13 sovereign citizen rhetoric, which is well known to just be a  
14 common scam and we believe that's part of his fraudulent scam.

15 MR. KOSS: I object.

16 THE COURT: Right. Okay. Now, what I'd like to do here  
17 is to go through some questions with you.

18 MR. KOSS: Sir, there is no sense in going through any  
19 questions. We're going to -- I have offered, and made an offer  
20 to the United States Government to settle this matter out. Sir,  
21 there has been an indictment that's been issued, isn't that  
22 correct? I mean, there's an indictment that's been issued and it  
23 came from a true bill?

24 THE COURT: You know, I've tried to be as patient as I  
25 possibly can with you, but --

1 MR. KOSS: Sir, it's a question. Isn't that true that  
2 an indictment was issued? See, I've never seen a warrant.

3 THE COURT: Okay. If you'll -- if you'll let me --  
4 if --

5 MR. KOSS: And, sir, wouldn't it be right that I am able  
6 to see a warrant?

7 THE COURT: If you'd give me a moment so I can explain  
8 to you what the implications are of what's going on here, that  
9 may help you better focus. I'm hopeful that it will. Okay.  
10 What we're doing is we're trying to make sure that, in fact, you  
11 are someone who's able to represent, however you want to call it,  
12 Charles Daniel Koss or however you want to frame it, in terms of  
13 the case proceeding to trial. Now, there are two roads that I  
14 can go down here. And normally what we do is if we have evidence  
15 that someone isn't or may not be competent, we generally send  
16 them off for an evaluation. And they -- it's usually quite  
17 disruptive to a defendant to have that happen to them. And let  
18 me explain to you the reason why. They take a defendant and the  
19 Marshals, when they have the opportunity to get a plane here,  
20 because they may move that defendant around the country. It may  
21 take us some time to get a defendant on board on a plane and then  
22 taken to one of the various facilities that conduct mental  
23 evaluations. Sometimes it takes as long as 30 days for that to  
24 occur.

25 MR. KOSS: But, sir, don't you think before this ever --

1 THE COURT: Will you let me -- will you let me --

2 MR. KOSS: -- before it ever got to this, don't you  
3 really honestly believe --

4 THE COURT: Will you let me finish here so that you can  
5 understand why it is that I want -- I want you to know this  
6 before we go any further. All right. I'm just -- I'm trying to  
7 get you to understand the implications of what's going on here.

8 MR. KOSS: I just want to know why I wasn't issued an  
9 warrant.

10 THE COURT: I don't know and I don't care. You know, I  
11 need to find out why it is if --

12 MR. KOSS: Sir, I'm under arrest, but I wasn't actually  
13 read any rights.

14 THE COURT: Okay.

15 MR. KOSS: I mean, isn't there some things that really  
16 need to be done if you're going to claim that I'm the defendant.

17 THE COURT: All right. So, what'll happen is you'll be  
18 shipped off. It may take as long as 30 days for you to even get  
19 picked up. And then it may take you even longer for you to  
20 actually be transported to the facility where the examination  
21 would take place. Once you're at the facility, it usually takes  
22 30 days for them to conduct an evaluation. After they've  
23 conducted an evaluation, then when the results have been  
24 generated, then it will take you, or an individual in that  
25 situation, time to get back here. And it may be as long as 30

1 days or more before an individual is brought back here to the  
2 district where the proceedings are originating. That can be very  
3 disruptive to someone who's in custody. And it's not a very  
4 pleasant thing to have to go through.

5 MR. KOSS: No, especially when you're kidnaped. And,  
6 sir, I'm telling you this -- you can call me disruptive or -- I  
7 came here today to try to work with you and not be adversarial.  
8 Sir, I have information that could change the plea on this whole  
9 thing.

10 THE COURT: That's not what we're here to take up  
11 though.

12 MR. KOSS: Possibly a guilty plea could come out as a  
13 result of this condition, sir.

14 THE COURT: Mister --

15 MR. KOSS: And if we could just take this to camera, I  
16 believe we could work this out.

17 THE COURT: We're not going to do that. We're here to  
18 take up this issue. And if -- here's what's going to happen.  
19 I've explained to you kind of what -- if we have to send you off,  
20 it may be an extended period of time before you come back. Then  
21 we'll have a hearing on all this and we'll resolve the issue one  
22 way or the other. It can be, as I mentioned, very disruptive to  
23 an individual to get moved around like that. And that's all I'm  
24 trying to tell you. That's all -- and what I want to do is I  
25 want to go through some very basic questions here --

1 MR. KOSS: Sir, --

2 THE COURT: -- about your -- about your --

3 MR. KOSS: -- I am not going to answer your questions,  
4 sir.

5 THE COURT: Okay. All right. Can --

6 MR. KOSS: Do you have a lawful and valid contract that  
7 I signed, sir?

8 THE COURT: Then if you don't answer the questions, then  
9 what I'm probably going to wind up doing is -- I have to have  
10 some assurances that you're competent. So, it may be that I'll  
11 send you off for an evaluation. And whether you cooperate with  
12 those people or you don't will be a different matter. But --

13 MR. KOSS: Wouldn't you ask to at least sometime prove  
14 who I am, sir? I'm asking you for a contract I entered into  
15 knowingly with full disclosure without threat or duress or  
16 intimidation that would bind me to any kind of maritime, a man on  
17 the land, to maritime riding with your jurisdiction. Sir, do you  
18 have that sort of contract?

19 THE COURT: Okay. I'm going to ask you some questions,  
20 and if you want to persist in doing this, that's fine. It would  
21 be helpful if I could have --

22 MR. KOSS: Sir, I asked you if you had that contract.

23 THE COURT: I don't have that contract.

24 MR. KOSS: Sir, then you have no reason to hold me  
25 whatsoever.

1 THE COURT: Great.

2 MR. KOSS: I demand that you release me immediately with  
3 cause and with prejudice.

4 THE COURT: That demand is denied. Now, let me ask you  
5 some questions here. And you can refuse to answer them, Mr.  
6 Koss, if you want to. That's certainly --

7 MR. KOSS: I'm not Mr. Koss.

8 THE COURT: Well, authorized representative for Mr. Koss  
9 then.

10 MR. KOSS: No. I am not Mr. Koss by any stretch of the  
11 imagination, sir. Charles Daniel Koss is a commercial  
12 transmitting utility, a trust organization with registration  
13 ending in 5449.

14 THE COURT: Okay.

15 MR. KOSS: Registered out of the state of Wyoming.

16 THE COURT: Have you ever had any issues with regard to  
17 your mental health?

18 MR. KOSS: I'm -- sir, unless you can show me the  
19 contract, I don't really have -- am not obligated to answer any  
20 questions for this Court.

21 THE COURT: Have you experienced any problems with  
22 anxiety or any sleep or mood or appetite disturbances?

23 MR. KOSS: Sir, unless you can show me a contract that  
24 says -- that empowers this Court to ask me a question one, I do  
25 not have to answer any questions for this Court, sir. And I once



1 again move this Court to dismiss this action with cause and with  
2 prejudice.

3 THE COURT: Is there any history in your background  
4 dealing with delusions, hallucinations or disorganized thoughts?

5 MR. KOSS: Sir, I have some things I would like to enter  
6 into the record, a new power of attorney and a plea if the Court  
7 would indulge that.

8 THE COURT: I'm not going to do that at this point. Do  
9 you -- are you going to continue to respond in this fashion?

10 MR. KOSS: Sir, you don't have -- you haven't come up  
11 with a contract that would require me to respond to you.

12 THE COURT: Do you understand the charges that have been  
13 placed against you?

14 MR. KOSS: Sir, I don't understand anything in regard to  
15 this because there's no contract and I'm not the defendant. I  
16 don't understand why I'm here.

17 THE COURT: Have you had a chance to review the evidence  
18 that's been made available to you?

19 MR. KOSS: Sir, there is no need in reviewing any  
20 evidence because there's no defendant, so there's no plaintiff.  
21 You have no subject matter jurisdiction, sir. And I've contested  
22 this before.

23 THE COURT: Right.

24 MR. KOSS: There's not one claim in the record. There's  
25 not a damaged party. There's not a victim. Sir, the Social

1 Security department was paid in full. You have a fictitious  
2 indictment on a bill that was paid in full on February 28<sup>th</sup>.  
3 And, sir, this is all part of the record and it should be noted  
4 by this Court.

5 THE COURT: Well, it is noted by this Court. So, there.  
6 I've noted it, Mr. Koss, or personal representative or however  
7 you want to be identified. I really --

8 MR. KOSS: It's not how I want to be identified, sir.  
9 It's not how I wanted to be identified, sir. I am not Charles  
10 Daniel Koss. Charles Daniel Koss is a fiction. Sir, do I look  
11 like I could be a fiction? I mean, you can't be both. And, sir,  
12 I have offered to settle this debt in accordance with the terms  
13 the Government put out. And I've accepted everything for value  
14 and honor and returned it with my exemption. And, sir, there is  
15 nothing more that really can be said other than the Government --  
16 you need to ask them if they accept the terms or not.

17 THE COURT: Well, what I am going to ask the Government  
18 is do you have a position that you think I should take with  
19 regard to sending him off for an evaluation?

20 MR. ALFORD: The United States thinks that the Court  
21 would be justified if it believes out of an abundance of caution  
22 that a mental competency examination is needed. We still believe  
23 it's part of a scam, his responses. But certainly, there is  
24 sufficient evidence on the record now that would justify the  
25 Court ordering him for a mental examination, and it would

1 certainly make the record clean.

2 MR. KOSS: I object to this word scam. There's no proof  
3 at all. There was only conjecture by the prosecution that  
4 there's any scam involved at all. Sir, have the prosecution show  
5 you a fictitious instrument. Have the prosecution show you a  
6 claim in the record. Sir, you allude to your immunity once you  
7 pass through subject matter jurisdiction, and I'm sure you're  
8 aware of that.

9 THE COURT: Do you want to respond to the Government's  
10 position with regard to sending you off for a mental competency  
11 examination?

12 MR. KOSS: Does the Government have a lawful and valid  
13 contract that I signed that would obligate me to perform anything  
14 for the United States Government, a man on the land? Does have  
15 that kind of contract?

16 THE COURT: Okay. Is there anything you want to say  
17 about the underlying question of your competency?

18 MR. KOSS: Sir, that has nothing to do with my  
19 competency. I'm the representative to the estate. I'm not the  
20 defendant. So, why would it have anything to do with my  
21 competency?

22 THE COURT: Okay. Here's what I'm going to do. I'm  
23 going to direct the parties to -- I want to give everybody an  
24 opportunity to brief the issue. So, I'm going to give you a week  
25 to do that. And both you and the personal representative over

1 here will have a week to brief the issue if you want to. I'm  
2 concerned about protecting his rights, and I don't want to do  
3 something that appears or seems punitive on one hand. But on the  
4 other hand, I don't know that I've got much of a choice here.

5 MR. KOSS: Sir, I put an affidavit of facts into this  
6 court last week. Today's the seventh day for the Government to  
7 respond to allegations that I've put into an affidavit of facts,  
8 sir. And this is -- an affidavit is something that's, you know,  
9 you depose to it, you swear to it. You're not crazy when you put  
10 it together, and you do expect a response. Has the Government  
11 responded to the notice to defend an affidavit of facts?

12 THE COURT: See, the problem is through when you keep  
13 talking like this, you're talking -- it's almost like you're  
14 talking a different language than I at least speak. And that  
15 creates a concern in my mind about whether or not you're in  
16 contact with reality. I mean --

17 MR. KOSS: Sir, I'm in contact with reality. This case  
18 account has been settled and discharged in full in its entirety.  
19 And the only thing -- one that doesn't recognize that is this  
20 Court.

21 THE COURT: Okay. All right. Well, I'm going to give  
22 you both an opportunity to brief the issue. And I'd be  
23 interested to see, you know, if there are -- I'm certainly going  
24 to research it, too, to see if there is any guidance that we can  
25 get from courts about what I should do here. But --

1 MR. ALFORD: Yeah. I need to do some more research,  
2 too, Your Honor. Off the top of my head, I'm familiar with a  
3 Ninth Circuit case involving a sovereign citizen, similar kind of  
4 scenario. And the Ninth Circuit in that case, on appeal the  
5 issue was that the defendant -- defendant's attorneys were  
6 saying, well, he was incompetent to proceed *pro se*. And the  
7 Ninth Circuit said, well, you know, being a fool is different  
8 than being incompetent. But having said that at the district  
9 court level, there was a mental competency examination. So, I  
10 mean, at this point, since the defendant is refusing even to  
11 answer your questions, out of an abundance of caution --

12 MR. KOSS: Well, there's no reason for me after I  
13 object.

14 MR. ALFORD: -- and I'm inclined to agree with the  
15 Court.

16 THE COURT: Okay. Let him finish first. Okay.

17 MR. ALFORD: If he were responding to your questions, it  
18 would be a little easier to --

19 THE COURT: I think I tried to make it clear that if I  
20 could get some responses to the questions I had, that would be  
21 very helpful in allowing me to make those decisions. But he's  
22 not, at least up to this point, not been willing to do that.

23 MR. KOSS: Sir, I think -- why won't the -- this Court  
24 address the fact that the indictment was obtained fraudulently?  
25 There's a check that the Social Security accepted the payment and

1 it was paid in full. And there's no debt owed to any Government  
2 agency. So, why -- what is the charges you've got against  
3 Charles Daniel Koss? I mean, where is the bonafide evidence,  
4 sir, for you to have subject matter?

5 THE COURT: Okay. I think that's the best we can do.  
6 So, I'll give you a week to brief this. And if there's a change  
7 in your --

8 MR. KOSS: I don't consent to my continued  
9 incarceration.

10 THE COURT: I understand. But if there's a change in  
11 your position on that, you'll have an opportunity to brief it.  
12 All right. Thank you.

13 (Court Adjourned at 3:07 p.m.)  
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13 I certify that the foregoing is a correct transcript  
14 from the electronic sound recording of the proceeding in the  
above-entitled matter.

15  
16 /s/ Lissa C. Whittaker  
Signature of transcriber

June 16, 2012  
Date